

**TOWN OF WEST NEW YORK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

ORDINANCE #3/18

**AN ORDINANCE AMENDING CHAPTER 317 OF THE CODE OF THE TOWN OF
WEST NEW YORK ENTITLED “SHORT-TERM VACATION RENTALS IN
RESIDENTIAL PROPERTIES PROHIBITED”**

WHEREAS, on December 21, 2017, the Town of West New York (“Town”) introduced Ordinance 317, to prohibit short term rentals of less than 30 days in residential properties; and

WHEREAS, on January 18, 2018, the Town held a public hearing on Ordinance 317; and

WHEREAS, on January 18, 2018, Town residents appeared at the public hearing to be heard, both in support and opposition, of the Ordinance; and

WHEREAS, in part in consideration of the concerns raised by Town residents, the Town now seeks to amend its Short-Term Rental Ordinance; and

WHEREAS, the Town of West New York consists of just 1.3 square miles, which is home to an estimated 54,000 residents; and

WHEREAS, the Town’s primary housing goals include preserving its housing stock and preserving the quality and character of its existing single and multi-family residential neighborhoods. In order to continue to flourish, the Town must preserve its available housing stock and the character and charm which result, in part, from cultural, ethnic, and economic diversity of its resident population; and

WHEREAS, the Town must also preserve its unique sense of community which it derives, in large part, from residents’ active participation in civic affairs, including local government, cultural events, and educational endeavors; and

WHEREAS, operations of vacation rentals, where residents of the Town rent-out entire units to visitors and are not present during the visitors’ stays are detrimental to the community’s welfare and are prohibited by local law, because occupants of such vacation rentals, when not hosted, do not have any connections to the Town community and to the residential neighborhoods in which they are visiting; and

WHEREAS, the presence of such visitors within the Town’s residential neighborhoods can sometimes disrupt the residential character of the neighborhoods and adversely impact the community; and

WHEREAS, judicial decisions have upheld local governments’ authority to prohibit vacation rentals; and

WHEREAS, the Board of Commissioners of the Town of West New York finds it to be in the best interest of the Town and its citizens to adopt an ordinance to limit such short-term vacation rentals in residential properties that may jeopardize the community’s welfare and degrade the quality of life within the Town.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Commissioners of the Town of West New York, County of Hudson, State of New Jersey as follows:

The Code of the Town of West New York is hereby amended and revised to delete newly created Chapter 317 entitled “Short Term Vacation Rentals in Residential Properties Prohibited” and replace it with “Limitations on Short Term Vacation Rentals in Residential Properties” to read as follows:

SECTION ONE

DEFINITIONS.

a. **Hosting Platform.** A marketplace in whatever form or format which facilitates the Vacation Rental, through advertising, match-making or any other means, using any medium of facilitation, and from which the operator of the hosting platform derives revenues, including booking fees or advertising revenues, from providing or maintaining the marketplace.

b. **Vacation Rental.** Rental of: (i) any dwelling unit, accessory building or structure, garage, attic, or basement, in whole or in part; or (ii) any furniture within any dwelling unit, accessory building or structure, garage, attic, or basement, within the Town of West New York, to any person(s) for exclusive transient use, whereby the dwelling unit’s owner is on-site and residing in another unit within the structure/property, throughout the visitors’ stay, and whereby the unit is only approved for permanent residential occupancy and not approved for commercial or transient occupancy by this Chapter. Rental of units within Town approved hotels, motels and bed and breakfasts shall not be considered Vacation Rental.

c. Permanent Residents. A person who occupies a dwelling unit or accessory building or structure, for at least sixty (60) consecutive days with intent to establish that unit as his or her primary resident and may be an owner or a lessee.

d. Owner Occupied. Where an individual record owner of a residential structure occupies it, in whole or in-part, as his primary residence. Where the record owner is a legal entity, Owner Occupied shall mean where an individual having at least 50% ownership interest in the owning legal entity occupies, in whole or in part, the residential structure as his or her primary residence.

e. Short-term rental. Any rental of a dwelling unit for less than 30 consecutive days.

f. Short Term Rental Host. An owner of a short-term rental unit who rents such units to guests.

g. Rent. The consideration received for occupancy, including any service or other charge or amount required to be paid as a condition for occupancy, valued in money, whether received in money or otherwise and whether received by the short-term rental host, a hosting platform, or other person acting on behalf of the short-term rental host.

SECTION TWO

PROHIBITIONS.

a. No person shall undertake, maintain, authorize, aid, facilitate or advertise any Short-term Vacation Rental activity that does not comply with this Code. Hosting Platform operators shall be excluded.

b. Short-term vacation rentals authorized under this Code shall not include apartments, condominiums, co-operatives or income-based public housing such as those owned/managed by the West New York Housing Authority. Such rentals shall not include individual rooms.

c. Only 1 short-term vacation rental is permitted per residential structure so that if the residential dwelling is a legal three (3) or four (4) family structure, only one unit may be occupied as a short term rental.

SECTION THREE

PERMITTED SHORT-TERM RENTALS

- a. The residential structure must be owner occupied, and be a legal two, three or four unit structure.
- b. There have been no more than 2 documented police reports of excessive noise, disturbances of the peace, disorderly persons, or vandalism within the preceding one (1) year period relating to or arising out of the short-term rental within the building at issue.
- c. The dwelling unit which is the subject of the short term rental has been registered pursuant to this subsection.
 1. Any person renting any dwelling, or part thereof, on short term rental basis, shall register the dwelling prior to such rental. Registration shall consist of filing a form, to be available at the Town's Building Department, whereby the person owning, leasing or having control of a dwelling to be rented on a short term basis, will provide the Town with a certification containing information, including, but not limited to, the following: (i) the name of the person owning, leasing or having control of the dwelling, or part thereof, which is to be rented on a short-term basis; (ii) where the person owning the building in which the dwelling unit is to be rented is located; (iii) that the building is owner occupied and the name of the individual owner(s); (iv) the number of off street parking spaces available for use by occupants of the building; and (v) that there have not been police reports exceeding those set forth Section 4.A(3).
 2. Within 60 days after the effective date of this chapter, short term rental hosts shall be required to submit a registration application to the building department for a short term rental unit license.
 3. Registration is required one time per year and re-registration shall be due by January 2 of every year. Re-registration application will be accepted December 1 of the preceding year.
 4. The cost of the initial application shall be \$25, which is non-refundable. Each subsequent renewal applications shall also be \$25.00. Should the application be accepted, a short-term rental license will be issued.

5. In the event the short term rental license is denied, a letter stating the reason for the denial within 30 days of denial.
6. Short term rental licenses are non-transferable.
7. The Code Enforcement Official shall review every application and renewal application. He may revoke the license of a short-term rental host upon a determination that the short term rental host has violated any provision of this article at least 3 times in 2 calendar years, and may determine that the short term rental host shall be ineligible for registration for a period of up to 12 months from the date the third violation is determined to have occurred. The Code Enforcement Official shall issue a letter setting forth the reason for the denial/revocation within 45 days of filing and payment of the registration fee.
8. In the event a license is denied or revoked, and within 10 days of receipt of notification of the denial/revocation, an appeal may be filed with the Code Enforcement Official and a hearing will be scheduled within 30 days of receipt of the appeal. The appeal must state the reason/grounds why the denial/revocation is believed to be erroneous.
9. Short term rental units and buildings shall not have any outstanding code violation(s).
10. It is a violation of this Ordinance to file a false application under this subsection.

SECTION FOUR

REGULATIONS.

a. The Board of Commissioners of the Town may promulgate regulations, which may include but are not limited to permit conditions, reporting requirements, inspection frequencies, enforcement procedures, advertising restrictions, disclosure requirements, or insurance requirements, to implement the provisions of this Chapter. No person shall fail to comply with any such regulation.

b. The Board of Commissioners of the Town may establish and set all fees and charges as may be necessary to effectuate the purpose of this Chapter.

SECTION FIVE

ENFORCEMENT AND VIOLATIONS.

a. Violation of any provision of this chapter shall be cause for a Municipal Court summons to be issued by the Police Department, Code Enforcement Official, or Health Officer.

SECTION SIX

INSURANCE

Short term rental hosts must carry at least \$250,000.00 in insurance to protect against third party claims of property damage or bodily injury that arises out of the operation of a short-term rental unit. Insurance provided by hosting platforms used by the short-term rental host may be used to satisfy this requirement.

SECTION SEVEN

OCCUPANCY TAX.

a. In accordance with N.J.S.A. 40:48F-1, there is hereby imposed a three percent tax on the rent charged for the occupancy of short-term rental unit that is subject to the New Jersey State Sales Tax under N.J.S.A. 32B-3(d).

b. Short-term rental hosts shall be responsible for collecting and remitting this tax to the Town on a quarterly basis.

c. Notwithstanding any provision or requirement otherwise, a short term rental host may use a hosting platform for the purpose of collecting and remitting the applicable room occupancy excise to the Town provided such hosting platform has entered into an agreement with the Town for the collection and remittance of such tax.

SECTION EIGHT

VIOLATIONS.

a. Violations of the provisions of this chapter shall be punishable for the first offense of a minimum fine of five hundred (\$500.00) dollars per day for each violation. Every subsequent offense shall be punishable by a minimum fine of one thousand (\$1,000.00) dollars per day for

each violation payable through the Municipal Court Violations Bureau. Each day that a person violates this Ordinance shall be considered a separate and distinct violation.

b. Any person convicted of violating any provision of this Chapter in a criminal case or found to be in violation of this Chapter in a civil case brought by a law enforcement agency shall be ordered to reimburse the Town and other participating law enforcement agencies their full investigative costs and remit all illegally obtained rental revenue to the Town so that it may be returned to the victims of illegal short term rental activities.

c. Any interested person may seek an injunction or other relief to prevent or remedy violations of this Chapter. The prevailing party in such an action shall be entitled to recover reasonable costs and attorney's fees.

d. The remedies provided in this Section are not exclusive, and nothing in this Section shall preclude the use or application of any other remedies, penalties or procedures established by law.

SECTION NINE

Severability. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not effect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION TEN

Repealer. All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all Ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION ELEVEN

This Ordinance shall take effect upon passage and publication as required by law.

SUMMARY OF ORDINANCE

This ordinance limits short term vacation rentals in residential properties throughout the Town.

Introduced: 2/15/2018

Re-Introduced: 3/15/2018

Hearing Postponed: 4/19/18

Hearing conducted: 5/17/18 (Tabled after Hearing closed and postponed until 7/19/18)

7/18/18: Tabled and postponed until 8/22/18

Withdrawn: 8/22/2018